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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/687,206	10/16/2003	Thomas R. Law	65961-0085	7168

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EXAMINER

WELCH, GARY L

ART UNIT	PAPER NUMBER
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3765

DATE MAILED: 09/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/687,206

Applicant(s)

LAW, THOMAS R.

Examiner

Gary L. Welch

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 October 2003.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 and 18-21 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-7, 10 and 18-20 is/are rejected.
7) ☒ Claim(s) 8, 9, 11 and 21 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 16 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 10162003.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities: It appears that the following changes are required:

Page 1, line 9: Delete "the" after "moving"

Page 2, line 1: Delete "if" and replace with --of--

Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the recitation "a tunnel of the damaged product" (lines 2-3) and "at least a portion of a perimeter of the damaged product" (lines 5-6). It is unclear what the applicant is claiming. It appears that the applicant is claiming a combination claim wherein the damaged product is provided with the kit. If this is the case, then it is unclear what the metes and bounds of the patent protection sought (i.e., what is the product, the products size and dimension is critical for determining the needle size).

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-3, 10, 18 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Wages (U.S. 3,312,380).

Wages discloses a kit 6 having a needle (Col. 3, lines 54-61) including an eyelet for receiving a drawstring. A guard (i.e., thimbles) is provided in the kit 6. The thread is considered a drawstring since it is an elongated strand of material and is capable of enclosing and tightening thereabout.

With regard to claim 2, the invention is disclosed above. There is no structure being claimed that further limits the claim from which it depends.

With regard to claim 3, the needle is flexible

With regard to claim 10, the guard (i.e., thimble) is applied by the user over a selected portion of the perimeter of the damaged product.

With regard to claim 18, the invention is disclosed above. It is noted that the claim recites a “means for” recitation. It is respectfully requested that the applicant inform the examiner if this recitation is to be treated as a 35 U.S.C. 112, sixth paragraph limitation.

With regard to claim 20, the invention is disclosed above.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 4 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wages (U.S. 3,312,380) in view of Lippard (U.S. 1,619,142).

Wages discloses the invention substantially as claimed above.

However, Wages does not disclose that the needle comprises an eyelet slit for facilitating opening and securing of a drawstring therein. Additionally, Wages does not disclose that the drawstring has a larger diameter than the opening of the eyelet for frictionally engaging the drawstring thereby preventing the drawstring from disengaging the needle.

Lippard teaches a sewing needle having an eyelet slit for facilitating opening and securing of a thread therein. The thread is capable of being retained by the slit 12 and therefore the thread has a larger diameter than the slit. The slit and opening facilitates easy threading of the thread to the needle.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the needles in the kit of Wages with needles as taught by Lippard for easily threading the thread to the needle.

With regard to claim 19, the invention is disclosed above.

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8. Claims 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wages (U.S. 3,312,380) in view of Holcomb (U.S. 587,123).

Wages discloses the invention substantially as claimed above.

However, Wages does not disclose that the guard has an outer material including a U-shape with inwardly facing opposing ribs.

Holcomb teaches a guard (Figure 1) having an outer material A that is U-shape and a plurality of inwardly facing opposing ribs (Col. 1, lines 43-49) for providing air circulation to the user's thumb.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to fabricate the thimbles of Wages to have a plurality of inwardly facing opposite ribs as taught by Holcomb in order to provide air circulation to the user's thumb.

Allowable Subject Matter

9. Claims 8, 9, 11 and 21 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Election/Restrictions

10. Applicant's election without traverse of Claims 1-11 and 18-21 in the reply filed on 24 August 2005 is acknowledged.


Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hashiguchi '648 and Severinski '213 disclose a U-shaped guard for protecting a trim of a car seat. Hinkel '215, Wilson '816, Arney '800, Beddow '260 and Sauger '437 disclose various drawstring replacing instruments.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary L. Welch whose telephone number is (571) 272-4996. The examiner can normally be reached on Mon-Fri 5:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John J. Calvert can be reached on (571) 272-4983. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Gary L. Welch
Primary Examiner
Art Unit 3765

glw